

# H.B. NO. 926

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## A BILL FOR AN ACT

RELATING TO OCCUPATIONAL SAFETY AND HEALTH HEARINGS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 396, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4           "§396- Appeals board. (a) In any hearing conducted by  
5 the appeals board under this chapter and pursuant to chapter 91,  
6 notwithstanding section 91-9.5, all parties shall be given  
7 written notice of hearing by first class mail at least fifteen  
8 days before the hearing.

9           (b) In all hearings before the appeals board, each board  
10 member shall have the same powers as possessed by the circuit  
11 courts respecting the administering of oaths, issuing subpoenas,  
12 compelling the attendance of witnesses, the production of  
13 documentary evidence, or the taking of depositions, and  
14 examining or causing to be examined witnesses. The circuit  
15 court of any circuit upon application by the appeals board or a  
16 party shall have power to enforce by proper proceedings the  
17 attendance and testimony of any witness so subpoenaed. Subpoena  
18 and witness fees and mileage in such cases shall be the same as

1 in criminal cases in the circuit courts and paid by the party  
2 calling the witness.

3 No person shall be excused from attending or testifying or  
4 producing material, books, paper, correspondence, memoranda, and  
5 other records before the appeals board or in obedience to  
6 subpoena on the grounds that the testimony or evidence,  
7 documentary or otherwise, required of the person may tend to  
8 incriminate the person or subject the person to a penalty or  
9 forfeiture; but no individual shall be prosecuted or subjected  
10 to any penalty or forfeiture for or on account of any  
11 transaction, matter, or thing concerning which the individual is  
12 compelled, after having claimed the individual's privilege  
13 against self-incrimination, to testify or produce evidence,  
14 documentary, or otherwise, except that such individuals so  
15 testifying shall not be exempt from prosecution and punishment  
16 for perjury committed in so testifying.

17 Pursuant to chapter 91, the appeals board may adopt rules  
18 of the Hawaii Rules of Civil Procedure and other rules in  
19 conducting any hearing.

20 (c) Contemptuous conduct at any hearing shall be grounds  
21 for summary exclusion from the hearing. Such misconduct, if of  
22 an aggravating character and engaged in by an attorney or other  
23 representative of a party, shall be grounds for suspension or

1 disbarment from further practice before the appeals board after  
2 due notice and hearing. The appeals board may impose other  
3 sanctions for contemptuous conduct, including dismissal of the  
4 appeal. Any action taken by the appeals board shall be by a  
5 simple majority."

6 SECTION 2. Section 396-3, Hawaii Revised Statutes, is  
7 amended by adding a new definition of to be appropriately  
8 inserted and to read as follows:

9 "Aggravating character" means circumstances and behavior  
10 that increase the seriousness or outrageousness of the  
11 contemptuous conduct."

12 SECTION 3. New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: \_\_\_\_\_



BY REQUEST

JAN 22 2013

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**Report Title:**

Occupational Safety and Health; Hawaii Labor Relations Board

**Description:**

Authorizes the Hawaii Labor Relations board to provide written notice of hearing to all parties by first class mail at least fifteen days before the hearing, notwithstanding section 91-9.5, Hawaii Revised Statutes, and clarifies the board's powers for conducting appeals under chapter 396, Hawaii Revised Statutes.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO OCCUPATIONAL SAFETY AND HEALTH HEARINGS.

PURPOSE: The purpose of this bill is to clarify the procedure for using first class mail by the Hawaii Labor Relations Board (Board) to notify parties of a hearing, notwithstanding section 91-9.5 Hawaii Revised Statutes (HRS). The bill also clarifies the board's powers for conducting appeals.

MEANS: Add a new section to chapter 396, HRS and amend section 396-3, HRS.

JUSTIFICATION: Governor Abercrombie's New Day plan envisions transforming state government into an efficient and effective enterprise. If enacted, this measure would allow the board to more efficiently allocate resources. In addition, this is the first step in the board's strategic planning efforts to move the agency into the digital age with a goal towards paperless litigation and electronic filing and document management.

The proposed new section will allow the board to use first class mail for mailing hearing notices. The existing method by certified mail is costly. Last year, the Legislature authorized the Labor and Industrial Relations Appeals Board to mail their hearing notices by first class mail. The bill also clarifies the board's powers for conducting appeals.

Impact on the public: It would save the State money.

Impact on the department and other agencies:

This bill will save money for state government, which will positively affect departments and other agencies.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	LBR 161.
OTHER AFFECTED AGENCIES:	None.
EFFECTIVE DATE:	Upon approval.